IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3105 OF 2004

Prakash Ratilal Gandhi .. Petitioner
V/s.
The Kapol Co-operative Bank Ltd. .. Respondent

Mr. K.V. Tembe for the Petitioner
Mr. S.G. Rajput for the Respondent

CORAM : F.I. REBELLO &
S.P. KUKDAY, JJ.
DATED : 17.03.2005.

P.C.:-

1. An order has been passed against the Petitioner under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The case of the Respondent Bank was that the Petitioners had created mortgage by depositing title deeds in favour of the Respondent Bank in respect of the amounts due and owing to the Respondent by the Petitioners in respect of loan advanced/bill discounting facilities.

2. The defence of the Petitioner is that the bill discounting facility had expired, much earlier to the share certificate being given to the Respondent Bank by letter dated 25.4.1997 and as such there was no security.

3. We are un-impressed. The fact remains that even if the bill discount facility had been terminated, there were amount due and payable by the Petitioner to the Respondent bank. For the amounts, outstanding with the

Petitioners, he could have created mortgage, which the Petitioner did by depositing the documents.

4. Considering the above, we do not find any merit in this matter. The order of the Magistrate does not disclose any error apparent on the face of record. No interference is called for. Petition rejected.

5. The learned counsel for the Petitioner prays that the statement made by the Bank not to take steps for recovery of the dues be extended by a period of four weeks from today. Considering what we have stated earlier, this is not a fit case. Hence prayer rejected.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)